
DTS DRUG FREE WORKPLACE POLICY

Status:	Active Policy
Effective Date:	January 17, 2007 through January 16, 2009
Revised Date:	N/A
Approved By:	J. Stephen Fletcher, CIO
Authority:	<i>Utah Administrative Code R477-14, State of Utah Drug and Alcohol Policy and Procedures, Drug Free Workplace Act of 1988, Omnibus Transportation Employee Testing Act of 1991, 49 USC 2505; 49 USC 2701; 49 USC 3102, Utah Code §67-19-36</i>

17.1 PURPOSE

The intent of this policy is to provide a safe and productive work environment that is free from the effects of substance and alcohol abuse.

17.1.1 Background

It is the Department's objective to send a clear message that any illegal drug use and/or alcohol misuse are incompatible with the Department's service. The Department of Technology Services (DTS) will conform to the Drug Free Workplace Act of 1988, Omnibus Transportation Employee Testing Act of 1991, 49 USC 2505, 49 USC 2701, 49 USC 3102, Utah Code Section §67-19-36 authorizing drug and alcohol testing, Department of Human Resources (DHRM) Rules and the State of Utah Drug and Alcohol Policy and Procedures.

17.1.2 Scope

This policy applies to all employees of DTS.

17.1.3 Exceptions

None.

17.2 DEFINITIONS

Drug Program Coordinator

An HR Specialist designated by the DTS HR Director as being responsible for the coordination of the requirements of this policy.

17.3 POLICY

It is the policy of DTS that the workplace will be drug and alcohol free. Employees

testing positive for illegal drugs/and or alcohol shall be subject to disciplinary action, which may include termination.

17.3.1 General.

- 17.3.1.1 The Department will follow and abide by rules and guidelines established by the U.S. Federal Government and DHRM Rules and the State of Utah Drug and Alcohol Policies and Procedures concerning substance abuse, drug and alcohol testing.¹
- 17.3.1.2 This policy is a term and condition of employment with the Department for all employees regardless of work site location.
- 17.3.1.3 Management who suspects or has received notice of a workplace violation of this policy must contact the Department's Drug Program Coordinator or the Human Resource Director for direction.

17.3.2 Drug and Alcohol Testing

- 17.3.2.1 All tests will be conducted according to rules and guidelines published by the Omnibus Transportational Employee Testing Act of 1991, Department of Human Resource Rules, and the State of Utah Drug and Alcohol Policies and Procedures.
- 17.3.2.2 The Department shall test for alcohol and the following drugs: Marijuana, Cocaine, Amphetamines, Opiates, and Phencyclidine. The Department may choose to use a ten-panel test. A ten-panel test includes testing for the above drugs, and Methadone, Barbiturates, Benzodiazepines, Propoxyphen, and Methaqualone.

17.4 POLICY COMPLIANCE

- 17.4.1 Employees that are found to be in violation of this policy are subject to disciplinary action, which may result in termination.
- 17.4.2 Appropriate disciplinary action shall be initiated against the employee consistent with state statute and DHRM rules if the employee has a confirmed positive test result. The Department may pursue a course of action directed at terminating the employee from state employment with assistance by the HR Office.
- 17.4.3 If termination is not imposed following an initial positive test result, upon receipt of a second verified positive test or a second determination that an employee uses illegal drugs and/or misuses alcohol while on duty or on

¹ The State of Utah Drug and Alcohol Policy and Procedures may be viewed at <http://www.dhrm.utah.gov/policy/drugAndAlcohol.html>

state property, termination of that employee from state employment is mandatory.

APPENDICES

- Reasonable Suspicion Testing
- Critical Incident Testing
- Post Accident Testing

DOCUMENT HISTORY

Originator:	Larene Wyss, DTS HR
Next Review:	N/A
Reviewed Date:	N/A
Reviewed By:	N/A

DEPARTMENT OF TECHNOLOGY SERVICES

Reasonable Suspicion Testing

Reasonable suspicion testing is authorized when management has cause to suspect that an employee is using illegal drugs and/or misusing alcohol. The Drug Program Coordinator, HR Director, or designee must be consulted before implementing reasonable suspicion testing procedures. Management should document the event and any difficulties encountered.

ALCOHOL

Reasonable suspicion alcohol testing must take place within 2 hours. The mere possession of alcohol does not constitute a need for reasonable suspicion testing, which must be based on observations concerning the employee's job performance, appearance, behavior, speech, and/or body odor. Where reasonable suspicion exists, the employee will not drive a state vehicle or a personal vehicle on state business until an alcohol test is completed and the alcohol concentration measures less than .02, or 24 hours have elapsed following the determination that reasonable suspicion of alcohol use exists.

ILLEGAL DRUGS

Reasonable suspicion testing, which must be based on observations concerning the employee's job performance, appearance, behavior, speech, and/or body odor. Where reasonable suspicion exists, the employee in question will not be allowed to drive a State vehicle or a personal vehicle on state business until the results of the drug testing are confirmed.

Responsibility: Supervisor or DTS Management

1. Immediately contact the Department's Drug Program Coordinator or the Human Resource Director to describe the situation
2. If reasonable suspicion exists and a drug and alcohol test is initiated, provide the employee with notice that he/she is being tested because of a reasonable suspicion. If a verbal notice is given, follow up with a written notice to include:
 - a) A statement describing relevant circumstances that form the basis for the decision to conduct reasonable suspicion drug/alcohol testing;
 - b) Assurance that the testing procedures follow federal guidelines;
 - c) Drug testing only: Notice of the opportunity for submitting supplemental medical documentation to the Medical Review Officer (MRO) if, and only if, the test results are positive;
 - d) The consequences of a confirmed positive result or refusal to be tested;

3. Immediately report to the Drug Program Coordinator any problems encountered during employee notification that would prevent testing.
4. If a drug test is ordered by Human Resources, direct the employee to remain at the worksite until the drug collection agency comes to the worksite. Explain to the employee why he/she is being tested. If the employee refuses to remain at the worksite for the drug/alcohol test, explain that it will be considered insubordination and will result in termination.
5. Escort the representative of the drug collection agency to a secure restroom in the facility.
6. When the representative is ready, escort the employee to the secure restroom for the test. Ensure that no other employee enters the restroom while the test is in process.
7. Put the employee on administrative leave pending the results of the test.
8. Develop documentation describing the circumstances which formed the basis that reasonable suspicion exists to authorize such testing. This documentation shall be retained in a secure confidential file maintained by the Drug Program Coordinator. If disciplinary action is taken as a result of a positive test, discipline will be documented as part of the employee's personnel record according to Human Resource Rules and department policy.

Responsibility: Drug Program Coordinator

1. Notify the drug collection agency immediately when the determination has been made to conduct reasonable suspicion testing.
2. Notify the employee's supervisor or, in his/her absence, an upper-level management official that collection procedures have been initiated.
3. Once the drug and alcohol test results is communicated from the MRO to the Department's Human Resource Director, the Drug Program Coordinator shall notify the management official having authority to initiate appropriate personnel actions.

DEPARTMENT OF TECHNOLOGY SERVICES
Critical Incident Testing

Critical incident testing is authorized 1) to determine the proximate cause of an incident in the workplace where there is reasonable suspicion that drugs or alcohol may be a factor in the cause of the incident, or 2) when the behavior, action or inaction of an employee is of such seriousness that it requires an immediate intervention on the part of management. Examples of a critical incident are workplace theft, breach of security, loss of data, and tampering with data.

The same procedures outlined under Reasonable Suspicion Testing are to be followed.

ALCOHOL

Reasonable suspicion alcohol testing must take place within 2 hours. The mere possession of alcohol does not constitute a need for reasonable suspicion testing, which must be based on observations concerning the employee's job performance, appearance, behavior, speech, and/or body odor. Where reasonable suspicion exists, the employee will not drive a state vehicle or a personal vehicle on state business until an alcohol test is completed and the alcohol concentration measures less than .02, or 24 hours have elapsed following the determination that reasonable suspicion of alcohol use exists.

ILLEGAL DRUGS

Reasonable suspicion testing, which must be based on observations concerning the employee's job performance, appearance, behavior, speech, and/or body odor. Where reasonable suspicion exists, the employee in question will not be allowed to drive a State vehicle or a personal vehicle on state business until the results of the drug testing are confirmed.

Responsibility: Supervisor or DTS Management

2. Immediately contact the Department's Drug Program Coordinator or the Human Resource Director to describe the situation
2. If reasonable suspicion exists and a drug and alcohol test is initiated, provide the employee with notice that he/she is being tested because of a reasonable suspicion. If a verbal notice is given, follow up with a written notice to include:
 - a) A statement describing relevant circumstances that form the basis for the decision to conduct reasonable suspicion drug/alcohol testing;
 - b) Assurance that the testing procedures follow federal guidelines;
 - c) Drug testing only: Notice of the opportunity for submitting supplemental medical documentation to the Medical Review Officer (MRO) if, and only if, the test results are positive;

- d) The consequences of a confirmed positive result or refusal to be tested;
3. Immediately report to the Drug Program Coordinator any problems encountered during employee notification that would prevent testing.
 4. If a drug test is ordered by Human Resources, direct the employee to remain at the worksite until the drug collection agency comes to the worksite. Explain to the employee why he/she is being tested. If the employee refuses to remain at the worksite for the drug/alcohol test, explain that it will be considered insubordination and will result in termination.
 5. Escort the representative of the drug collection agency to a secure restroom in the facility.
 6. When the representative is ready, escort the employee to the secure restroom for the test. Ensure that no other employee enters the restroom while the test is in process.
 7. Put the employee on administrative leave pending the results of the test.
 8. Develop documentation describing the circumstances which formed the basis that reasonable suspicion exists to authorize such testing. This documentation shall be retained in a secure confidential file maintained by the Drug Program Coordinator. If disciplinary action is taken as a result of a positive test, discipline will be documented as part of the employee's personnel record according to Human Resource Rules and department policy.

Responsibility: Drug Program Coordinator

1. Notify the drug collection agency immediately when the determination has been made to conduct reasonable suspicion testing.
2. Notify the employee's supervisor or, in his/her absence, an upper-level management official that collection procedures have been initiated.
3. Once the drug and alcohol test results is communicated from the MRO to the Department's Human Resource Director, the Drug Program Coordinator shall notify the management official having authority to initiate appropriate personnel actions.

DEPARTMENT OF TECHNOLOGY SERVICES

Post-Accident Testing

Drug/alcohol tests for employees meeting post-accident criteria shall be conducted according to standardized testing procedures. Testing for the presence of drugs and alcohol shall be conducted following an accident or on the job injury that involves or results in:

1. A fatality. All employees involved in a fatality will be tested;
2. The employee receiving a citation for a moving traffic violation, when the accident results in an injury requiring medical attention and/or any vehicle involved in the accident has been disabled;
3. Any circumstances which meet the "reasonable suspicion" criteria outlined in this procedure.

In all cases except fatalities, only those employees who management has cause to suspect contributed to an accident or incident shall be subject to drug testing.

For **illegal drugs**, testing should be conducted as soon as possible. If a drug test has not been administered within 32 hours following the incident, attempts to conduct a test shall cease, and written documentation shall be prepared by management stating the reason(s) why the test was not promptly administered.

For **alcohol**, testing should take place within 2 hours of the accident. In cases where circumstances prevent the testing of a driver within this time frame, written documentation shall be prepared by management stating the reason(s) why the test was not promptly administered. If an alcohol test has not been administered within eight hours following the incident, attempts to conduct a test shall cease.

For **alcohol**, persons subject to post-accident testing must remain available and refrain from consuming alcohol for eight hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

For **alcohol**, the Department recognizes post-accident tests conducted by Federal, State, and local officials as meeting the requirements of this rule under the following conditions:

1. The official must have independent authority to conduct the test;
2. Tests must conform to Federal, State, or local requirements;
3. Tests must require blood or breath sample.

Responsibility: Supervisor or DTS Management

1. When determining those subject to testing, the following steps should be followed:

- a) Determine whether the accident is a covered event under Post-Accident Drug Testing. This determination shall be based on review of all available facts and should be determined as soon as possible based on these guidelines.
- b) Following a determination that the accident qualified as a covered event, management shall take all practical steps to identify each employee whose work performance or behavior may have been a contributing factor to the accident.
- c) After identifying each employee as specified in 1b, management shall exclude from testing those employees whose work performance during the time of the accident was determined not to have been a contributing factor.
- d) Notify the Drug Program Coordinator or the Human Resource Director with the necessary information to initiate the test.

Responsibility: Drug Program Coordinator

- 1. Notify the drug collection agency and provide the proper information concerning the employee or employees subject to testing.
- 2. Contact the immediate supervisor with the necessary information, who will then notify the employee of the time, place, and requirements of the post-accident drug test.
- 3. Once the drug and alcohol test results is communicated from the MRO to the Department's Human Resource Director, the Drug Program Coordinator shall notify the management official having authority to initiate appropriate personnel actions.